U.S. Department of the Interior
Bureau of Land Management
White River Field Office
220 E Market St
Meeker, CO 81641

DECISION RECORD

Piceance-East Douglas Herd Management Area – Duck Creek Fence Reconstruction and Corcoran Spring Redevelopment

DOI-BLM-CO-N050-2016-0057-EA

Background

The Duck Creek Fence was originally identified for improvement under a separate National Environmental Policy Act (NEPA) document DOI-BLM-CO-N05-2014-0035-EA along with four other sections of fence that needed to be constructed for the Piceance-East Douglas Herd Management Area (HMA) boundary. It was determined that the Duck Creek section of fence required an in depth, separate analysis due to resource conflicts regarding Dudley Bluffs bladderpod and cultural resources.

The current HMA boundary fence has a gap in this area that was created when the old fence became non-functional; the barbed wire has either fallen off wooden posts that remain standing or is connected to the wooden posts that have rotted and fallen over. In order to avoid impacts to cultural resources and threatened plant species, it was necessary to move the proposed replacement section of fence approximately 450 meters west of the historic fence's location. The exact location of the new section of fencing will be located based on: where fence construction and maintenance would be considered practical due to the landscape; grazing allotment delineations; minimizing impacts from fence construction on special status plant species; locations of known cultural resources in the area; and how the fence aids in containing wild horse populations within the designated HMA boundary.

The Corcoran Spring development was originally constructed in the late 1970s for wild horses to use in the HMA (Range Improvement Project #200688). The spring development fell into disrepair over time. In 2012, due to drought conditions, Corcoran Spring was ultimately reduced to a "mud pit" by wild horses, livestock, and wildlife trampling the spring and using the limited water supply.

Proposed Decision

It is my proposed decision to approve the Duck Creek fence and Corcoran Spring project described in Alternative A of DOI-BLM-CO-N05-2016-0057-EA.

Duck Creek Fence

A new fence will be constructed in the Duck Creek area for approximately 0.9 miles. The fence will be 4-strand barbed wire fence (Type D) construction with the following spacing in order to avoid crossing conflicts with big game (from the ground up): 16, 6, 6, and 12 inches. T-posts

would be a minimum 5 foot long and pounded into the ground with a hand post pounder at a depth of approximately 12 inches depending on soils in the area. Wooden posts will be 6 to 8 feet long and placed as deep as possible depending on the subsoil where each is placed. Wooden posts, T-posts, and gates will be aligned as specifically delineated by the WRFO specialists in order to mitigate impacts to cultural resources, special status plant species, and wildlife resources along the route of the proposed fence. Barbed wire will be removed from the old non-functional fence. The fence posts will remain in place either standing or on the ground. Removing the old barbed wire will reduce potential future impacts to wild horses, livestock, and wildlife from becoming tangled in loose wire. The removal of the barbed wire will take place during the dormant period for the Dudley Bluffs bladderpod. Leaving the historic fence posts in place will reduce any potential impacts to the bladderpod.

Corcoran Spring

Corcoran Spring will be redeveloped for use by wildlife, livestock, and wild horses as well as for protection of the spring source. The proposal includes buck and pole fencing around the spring source in order to protect the spring, cleaning out the spring box, removal of the old trough, installation of an in-ground water trough system, and an above-ground water trough. Any of the over-flow from the troughs will be piped back to the unnamed drainage to the west.

The exact placement of the water troughs will be determined at a location that the WRFO and Northwest Pipeline Corporation (NWP) agree on the location(s), to reduce impacts to resources and to the pipeline. The two-track road into the location will receive minimal periodic maintenance for those times when trucks and stock trailers may be used for wild horse management.

To address erosion and headcutting concerns, the WRFO will install erosion fabric covered by cobble against the upstream face of the spring box structure (first location). At the second location (at 268 ft.), the WRFO will install a wooden check structure. For the third location (at 357 ft.), the WRFO will work closely with NWP to install the recommended structure because the proposed check dam location is within the 50 feet of the center line of the active pipeline. If the check dam structure cannot be installed at this location, WRFO will consider the placement of the erosion fabric covered by cobbles.

Design Features for Both the Duck Creek Fence and Corcoran Spring Redevelopment:

1. No new roads or ways would be constructed in order to build or maintain the new fence section or the spring redevelopment.

2. Any brush or woodland removed for fence construction or spring redevelopment will be lopped (cut into pieces less than 2 feet long) and spread in the disturbed areas to reduce rain splash erosion and potential entrainment of sediment during storm events. Limbed material shall be scattered across areas in such a way that large concentrations of heavy fuels are avoided, and vehicle use is deterred.

3. All fence construction and spring redevelopment activities will cease when soils or road surfaces become saturated to a depth of three inches.

4. Monitoring of the project areas will be completed every year for the first three years by the range staff or soil specialist following construction of the fence line and the spring redevelopment in order to protect public land health standards for soils. Erosion features such as rilling, gullying, piping and mass wasting on the surface disturbance or adjacent to the fence line or the spring redevelopment would be addressed immediately after observation by formulating a plan to assure successful soil stabilization with Best Management Practices (BMPs) to address erosion problems.

5. All channel crossings on perennial and intermittent streams for either the fence line construction or the spring redevelopment protective fence around the spring box will be constructed to allow the movement of debris during flood events. This may be accomplished by rebar panels or UV resistant PVC panels suspended on a cable that allows the panels to swing out during flood events and reduce impacts to the hydrology of the channel.

6. All equipment used for construction shall be cleaned before it comes to the WRFO and when it leaves the WRFO to minimize the potential spread of noxious and/or invasive weed species.

7. Monitoring of the project areas will be completed every year for three years following construction of the fence line and the spring redevelopment by the range staff or weed specialist to ensure no new weed establishment has occurred. If new weeds are found, appropriate treatment will be completed to eradicate or minimize spread. After the initial three years of monitoring, periodic checks of the project areas will be conducted in accordance with the WRFO's Integrated Weed Management plan.

8. Occupied habitat will be monitored for noxious and invasive weed species prior to and after the project. If noxious/invasive weeds are detected, they will be treated in conformance with the White River Field Office Integrated Weed Management Plan. If possible, hand removal of weeds will be preferred, but herbicides may be applied in conformance with the buffers identified in Table 1. These distance were established during the consultation with FWS for the "Vegetation Treatment on Bureau of Land Management Lands in 17 Western States Programmatic Environmental Impact Statement."

Table 1. Herbicide Buffer Distances from Terrestrial Special Status Plant Species [1]

Active Ingredient	Buffer Width	Method(s) to Which Applied
2,4-D	0.5 mile	All
Bromacil	1,200 feet	All
Chlorsulfuron	1,200 feet	Ground
	1,500 feet	Aerial

Table 1. Herbicide Buffer Distances from Terrestrial Special Status Plant Species [1]

Active Ingredient	Buffer Width	Method(s) to Which Applied
Clopyralid	900 feet	Ground, typical rate
	0.5 mile	Ground, maximum rate; aerial
Dicamba	1,050 feet	Ground
Diflufenzopyr	100 feet	Low boom, typical rate
	500 feet	Low boom, maximum rate; high boom
	900 feet	Aerial
Diquat	900 feet	Ground, typical rate
	1,000 feet	Ground, maximum rate
	1,200 feet	Aerial
Diuron	1,100 feet	All
Fluridone	0.5 mile	All
Glyphosate	50 feet	Ground, typical rate
	300 feet	Ground, maximum rate; aerial
Hexazinone	300 feet	Ground, typical rate
	900 feet	Ground, maximum rate
Imazapic	25 feet	Ground, typical or maximum rates
	300 feet	Aerial, typical rate
	900 feet	Aerial, maximum rate
Imazapyr	900 feet	Ground or aerial, typical rate
	0.5 mile	Ground or aerial, maximum rate
Metsulfuron Methyl	900 feet	Ground or aerial, typical rate
	0.5 mile	Ground or aerial, maximum rate
Overdrive®	100 feet	Low boom, typical rate
	900 feet	Low boom, maximum rate; high boom
Picloram	0.5 mile	All
Sulfometuron Methyl	1,500 feet	All
Tebuthiuron	25 feet	Low boom, typical rate
	50 feet	Low boom, maximum rate; high boom, typical rate
	900 feet	High boom, maximum rate
Triclopyr	300 feet	Ground, typical rate
	500 feet	Aerial, typical rate
	0.5 mile	Ground or aerial, maximum rate

[1] Source: BLM 2007a

9. The proposed fence and spring redevelopment would not coincide with mid or late winter occupation of winter ranges by big game (December 1 to April 30).

10. The BLM Project Lead and/or Contractor is responsible for informing all persons who are associated with the project that they will be subject to prosecution for knowingly disturbing

archaeological sites or for collecting artifacts.

11. If any archaeological materials are discovered as a result of operations under this authorization, activity in the vicinity of the discovery will cease, and the WRFO Archaeologist will be notified immediately. Work may not resume at that location until approved by the Authorized Official (AO). The Contractor will make every effort to protect the site from further impacts including looting, erosion, or other human or natural damage until BLM determines a treatment approach, and the treatment is completed. Unless previously determined in treatment plans or agreements, BLM will evaluate the cultural resources and, in consultation with the State Historic Preservation Office (SHPO), select the appropriate mitigation option within 48 hours of the discovery. The Contractor, under guidance of the BLM, will implement the mitigation in a timely manner. The process will be fully documented in reports, site forms, maps, drawings, and photographs. The BLM will forward documentation to the SHPO for review and concurrence.

12. Pursuant to 43 CFR 10.4(g), the Project Lead and/or Contractor must notify the AO, by telephone and written confirmation, immediately upon the discovery of human remains, funerary items, sacred objects, or objects of cultural patrimony. Further, pursuant to 43 CFR 10.4(c) and (d), the Contractor must stop activities in the vicinity of the discovery and protect it for 30 days or until notified to proceed by the AO.

13. The Project Lead and/or Contractor is responsible for informing all persons who are associated with the project operation that they will be subject to prosecution for disturbing or collecting vertebrate or other scientifically important fossils, collecting large amounts of petrified wood (over 25lbs./day, up to 250lbs./year), or collecting fossils for commercial purposes on public lands.

14. If any paleontological resources are discovered as a result of operations under this authorization, the Project Lead and/or Contractor or any of his agents must stop work immediately at that site, immediately contact the BLM Paleontology Coordinator, and make every effort to protect the site from further impacts, including looting, erosion, or other human or natural damage. Work may not resume at that location until approved by the AO. The BLM or designated paleontologist will evaluate the discovery and take action to protect or remove the resource within 10 working days. Within 10 days, the Project Lead and/or Contractor will be allowed to continue construction through the site, or will be given the choice of either (a) following the Paleontology Coordinator's instructions for stabilizing the fossil resource in place and avoiding further disturbance to the fossil resource, or (b) following the Paleontology Coordinator's instructions for mitigating impacts to the fossil resource prior to continuing construction through the project area.

Design Features for the Duck Creek Fence Reconstruction:

1. Fence maintenance responsibilities will be designated through a Cooperative Range Improvement Agreement, as the new fence section fills a gap where the fence is no longer functional and increases the grazing permittee's ability to use a grazing allotment or pasture. For maintenance activities, this fence section will be accessed by foot or horseback due to the cultural resources and threatened plant species associated with the fence. Modification to this agreement could be made if a volunteer organization were available and willing to enter into a maintenance agreement.

2. The fence line will be flagged prior to construction by BLM staff to ensure cultural, special status plant species, and wildlife resources are avoided and not adversely impacted by the proposed fence construction. Due to an active Cooper's hawk nest (fence line route survey 6/16/2016), the nest tree will be identified/marked prior to fence installation. Removal and/or modification to the nest tree will not be permitted. Wildlife staff will be present during fence layout to ensure nest stand characteristics remain intact (as much as possible) within 50-70 meters of the nest tree.

3. Gates will be added as necessary along the fence line. The exact placement of the fence will be delineated (marked) prior to construction. Considerations given during marking of the fence line location will include cultural resources, special status plants, raptor nesting, and the ability to avoid old growth pinyon/juniper trees and/or small rock outcroppings.

4. The WRFO will remove the old wire associated with the old fence route, during the dormant time period associated with the Dudley Bluffs bladderpod *(Physaria congesta*) population in the area. The cedar fence posts will be left in place either as they stand or as they have fallen.

5. Signs along the fence will be posted identifying the HMA boundary as well as signs requesting gates be closed (i.e., signs with "Wild Horse Area - Please Close Gate" (see **Error! Reference source not found.**). All identified gates with posted signage on the HMA boundary will be kept closed. When posted gates are found open by BLM personnel they will be instructed to close them.

6. Trees that have been approved to be removed for fence construction and are of proper size for fence posts could be used in the fence construction for the fence.

7. OHV use will be allowed on a specific route to allow project materials to be delivered to the fence project, with this route being reclaimed and signed at the end of the project to avoid future use. The WRFO will try to conduct most of the fence construction using foot, horse, or other non-motorized types of transportation for this construction activity.

8. Fence installation will occur outside the woodland raptor reproductive period. Fence installation will not be permitted from February 1 – August 15 or until fledging and dispersal of young.

The following design features for the Duck Creek Fence were committed to by the WRFO during Section 7 consultation with the United State Fish and Wildlife Service (FWS) for threatened plants:

9. The WRFO will have a qualified monitor on-site during all fence construction within the plant species' occupied habitat to ensure all conservation measures are adhered to.

10. All fence construction will be completed by hand in areas of occupied habitat. No mechanical equipment will be used or staged within occupied habitat. Equipment will be staged either at the water gap or on an old existing two-track 0.5 miles west of the fence. Access will also take place off Rio Blanco County Road 91 where the proposed fence will meet the existing fence (Figure 1).

11. A corridor will be flagged (10 feet on each side of the fence line) where all contractors or volunteers will remain while work is completed on the fence to prevent excess disturbance to plants within occupied habitat. All plants within this corridor will be marked or capped in an effort to minimize impacts to individual plants by staff/contractors/volunteers.

12. Prior to construction, all workers/volunteers will be educated on the identification of the Dudley Bluffs bladderpod as well as all the conservation measures in the EA to ensure all stipulations are adhered to.

13. No fence construction will take place on the plant species' occupied habitat if soils are saturated to prevent excess soil and plant disturbance from erosion or deposition.

14. Prior to fence construction, monitoring plots will be established and read in the area to determine the number and condition of plants in the project area. Monitoring will continue for three years following fence construction to determine impacts to plants from fence construction. Plots will be established in a manner that provides enough statistical power to detect change in plant numbers and condition in the project area. Results of the plots will be provided to FWS upon completion of the project.

15. If possible, only metal t-posts will be used where the fence bisects the plant population to minimize disturbance from digging postholes to set wooden posts. If unavoidable, only the minimum amount of wood posts will be used to reduce impacts to the plant species' in occupied habitat.

Design Features for Corcoran Spring Redevelopment:

1. Since the reconstructed spring source will increase the grazing permittee's ability to use a Rocky Ridge pasture and/or facilitate regulating their livestock in this pasture, the spring redevelopment maintenance responsibilities will be designated through a Cooperative

Range Improvement Agreement. Modification to this agreement could be made if a volunteer organization were available and willing to enter into a maintenance agreement.

2. The project will be accomplished by either a volunteer organization and/or a contracted construction crew using equipment such as a backhoe or skid-steer type mounted backhoe in order to clean the concrete trough and set the water tanks (in ground and above ground). Hauling of materials may be accomplished by OHV equipment or hand packed from the existing two-track road approximately 250 feet from the redevelopment location. The hillside includes a steep slope, and pickup trucks will be used to haul materials to the location on the existing two-track road. Vegetation clearing will be minimal and only as necessary for the proposed location to accommodate future use of the area for wild horse management.

3. The BLM will coordinate with the existing Right-of-Way (ROW) holders prior to construction activity. The exact layout of the redevelopment was designed through coordinated efforts with the ROW holder whose pipeline crosses the area (Northwest Pipeline Corporation/Williams). The layout meets their request that the project be completed outside of the 50 foot ROW (25 feet on each side of the pipeline/center).

4. A buck and pole fence enclosure will be placed around the spring box after it is cleaned out and the pipeline(s) have been placed to feed water to the in-ground trough (Figure 6) and the above-ground trough. The in-ground trough will be left without fence protection; the above-ground trough will have a constructed buck and pole type fence that will not allow animals to get into the trough but allow full access to the water in the trough. Both troughs will have wildlife and bird ramps for escape of animals that may fall into the trough to reduce the risk of wildlife drowning.

5. If wild horse management activities are authorized, temporary metal corral panels may be used at the location. In general, a few panels may be added every few days until a trap feature is built for use in bait/water trapping at the location and may be taken down when not in use.

6. In order to improve animal distribution on the public lands, no salt blocks and/or mineral supplements will be placed (either permanent or temporary) within ¼ mile of the Corcoran Spring watering facility unless stipulated through a written agreement or decision (43 CFR 4130.3-2(c)).

7. Spring redevelopment would occur outside of the core nesting period for migratory birds (i.e., May 15 to July 15).

8. To inhibit hyporheic flow, the incorporation of erosion fabric covered by cobble against the upstream face of the check dam structures will be installed (Figure 9). Prior to

installing the wooden check structures, some recontouring of the stream channel will be completed to reestablish the average thalweg slope (Figure 10).

The following design features for the Corcoran Spring were committed to by the WRFO during Section 7 consultation with the United States Fish and Wildlife Service (FWS) for threatened plants:

9. The BLM will have a qualified monitor on-site during the project to ensure all conservation measures are followed.

10. A route will be flagged from the two-track road to the spring in order to avoid plants to the maximum extent possible. It is anticipated that 8-10 plants will be directly impacted along the access route. Qualified BLM personnel or a qualified contractor will transplant any plants that can't be avoided on the pipeline ROW into suitable habitat away from the access route.

11. Plants that are transplanted will be tagged and monitored for three years following the project to determine survival and future reproduction. An annual monitoring report will be submitted to FWS showing results of the monitoring.

12. Prior to construction, all workers/volunteers will be educated on identifying Dudley Bluffs twinpod as well as all the conservation measures in this EA to ensure all stipulations are adhered to.

Final Decision

In the absence of a protest, this proposed decision shall constitute my final decision without further notice in accordance with 43 CFR 4160.3(a). Should a timely protest be filed I will consider the points of the protest and other pertinent information and issue my final decision to all persons named in this decision in accordance with 43 CFR 4160.3(b).

Compliance with Laws & Conformance with the Land Use Plan

This decision is in compliance with the Endangered Species Act and the National Historic Preservation Act. It is also in conformance with the 1997 White River Record of Decision/Approved Resource Management Plan.

Finding of No Significant Impact (FONSI)

I have reviewed the Environmental Assessment (EA) DOI-BLM-CO-N05-2016-0057-EA. Based on the interdisciplinary analysis of potential environmental impacts contained in the attached EA, and considering the Council on Environmental Quality's (CEQ) significance criteria in 40 CFR 1508.27, I have determined that the impacts associated with the implementation of the Proposed Action will not have a significant effect on the human environment. Therefore, preparation of an Environmental Impact Statement (EIS) is not required.

Public Involvement

External scoping was conducted by posting this project on the WRFO's on-line National Environmental Policy Act (NEPA) register on January 19, 2016. The EA and the unsigned Finding of No Significant Impact (FONSI) were available for a 30-day public review and comment period beginning October 31, 2016 and ending December 15, 2016. Comments were received from a few individuals, a wild horse organization, an energy related corporation, and Colorado Parks and Wildlife. Those comments were addressed in Appendix B of the EA.

Rationale

The two proposed range improvement projects will facilitate management of the Piceance-East Douglas HMA.

Construction of the new 0.9 mile section of the Duck Creek fence will help to make sure that wild horses remain within the HMA (which the WRFO has identified for long-term wild horse management) and reduce the likelihood of wild horses getting on to the road and creating a safety hazard. Removing barbed wire from the historic fence location will reduce the possibility that wildlife or wild horses are entangled or injured by the historic fence.

Redevelopment of the Corcoran Spring will allow wild horses to have access to a reliable (perennial) water source within the HMA. Fencing of the spring source would protect water quality and reduce the risk of permanent damage to the spring source. Installing both above-ground and in-ground water troughs would facilitate use by wildlife, livestock, and wild horses.

Monitoring and Compliance

As described in the design features above, monitoring will be conducted by BLM staff prior to and after construction of the proposed projects for erosion, weeds, and changes in population numbers of threatened plants. During construction, wildlife staff and a qualified plant monitor will be present to make sure design features associated with raptors and threatened plants are followed. An annual monitoring report (for the first three years) will be submitted to the U.S. Fish and Wildlife Service if any threatened plants need to be transplanted.

Authority

Both projects are in compliance with Public Law 92-125, the Wild Free Roaming Horse and Burro Act as amended; the Federal Land Policy and Management Act (FLPMA); and Public Law 95-514, the Public Rangelands Improvement Act of 1978 (PRIA), which require the BLM to protect, manage, and control wild horse populations on public lands.

Right of Protest and/or Appeal

Any applicant, permittee, lessee, or other interested public may protest this proposed decision within 15 days following its receipt in accordance with 43 CFR 4160.2. The protest may be submitted in person or in writing to the Bureau of Land Management, White River Field Office, Kent E. Walter, Field Manager, 220 East Market Street, Meeker, Colorado 81641.

In the event that this proposed decision becomes the final decision without further notice, any applicant, permittee, lessee, or other person whose interest is adversely affected by the final BLM grazing decision may file an appeal for the purpose of a hearing before an administrative

law judge in accordance with 43 CFR 4160.3(c), 4160.4, 4.21, and 4.470. The appeal must be filed within 30 days following receipt of the final decision or 30 days after the date the proposed decision becomes final. The appeal should state the reasons, clearly and concisely, why the appellant thinks the final BLM grazing decision is in error. A petition for a stay of the decision pending final determination of the appeal by the administrative law judge may also be submitted during this same 30 day time period. The appeal, or the appeal and petition for stay, must be in writing and delivered in person, via the United States Postal Service mail system, or other common carrier, to the *(enter Field Office name)* Field Office as noted above. The person/party must also serve a copy of the appeal on any person named [43 CFR 4.421(h)] in the decision and the Office of the Solicitor, 755 Parfet St., Suite 151, Lakewood, CO 80215. The BLM does not accept appeals by facsimile or email at this time.

Should you wish to file a petition for a stay in accordance with 43 CFR Section 4.471(c), the appellant shall show sufficient justification based on the following standards:

1. The relative harm to the parties if the stay is granted or denied;
2. The likelihood of the appellant's success on the merits;
3. The likelihood of immediate and irreparable harm if the stay is not granted; and
4. Whether the public interest favors granting the stay.

Within 15 days of filing the appeal, or the appeal and petition for stay, with the BLM officer named above, the appellant must serve copies to any other person named in this decision and on the Office of the Regional Solicitor located at 755 Parfet Street, Suite 151, Lakewood, CO 80215, in accordance with 43 CFR 4.470(a) and 4.471(b).

Signature of Authorized Official

Kent E. Walter, Field Manager

Date